

108TH CONGRESS
2D SESSION

H. R. 4768

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2004

Received

AN ACT

To authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, otherwise to improve management of medical facilities of the Department of Veterans Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38,**
 4 **UNITED STATES CODE; TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
 6 “Veterans Health Programs and Facilities Enhancement
 7 Act of 2004”.

8 (b) REFERENCES TO TITLE 38, UNITED STATES
 9 CODE.—Except as otherwise expressly provided, whenever
 10 in this Act an amendment or repeal is expressed in terms
 11 of an amendment to, or repeal of, a section or other provi-
 12 sion, the reference shall be considered to be made to a
 13 section or other provision of title 38, United States Code.

14 (c) TABLE OF CONTENTS.—The table of contents for
 15 this Act is as follows:

Sec. 1. Short title; references to title 38, United States Code; table of contents.

TITLE I—MEDICAL FACILITIES MANAGEMENT

Sec. 101. Major medical facility leases.

Sec. 102. Department of Veterans Affairs Capital Asset Fund.

Sec. 103. Annual report to Congress on inventory of Department of Veterans
 Affairs historic properties.

Sec. 104. Authority to use project funds to construct or relocate surface park-
 ing incidental to a construction or nonrecurring maintenance
 project.

Sec. 105. Inapplicability of limitation on use of advance planning funds to au-
 thorized major medical facility projects.

Sec. 106. Improvement in enhanced-use lease authorities.

Sec. 107. Extension of authority to provide care under long-term care pilot pro-
 grams.

TITLE II—OTHER MATTERS

Sec. 201. Inclusion of all enrolled veterans among persons eligible to use can-
 teens operated by Veterans’ Canteen Service.

Sec. 202. Enhancement of medical preparedness of Department.

1 **TITLE I—MEDICAL FACILITIES**
2 **MANAGEMENT**

3 **SEC. 101. MAJOR MEDICAL FACILITY LEASES.**

4 (a) AUTHORIZED LEASES.—The Secretary of Vet-
5 erans Affairs may enter into contracts for major medical
6 facility leases at the following locations, in an amount for
7 each facility lease not to exceed the amount shown for that
8 location:

9 (1) Wilmington, North Carolina, Outpatient
10 Clinic, \$1,320,000.

11 (2) Greenville, North Carolina, Outpatient Clin-
12 ic, \$1,220,000.

13 (3) Norfolk, Virginia, Outpatient Clinic,
14 \$1,250,000.

15 (4) Summerfield, Florida, Marion County Out-
16 patient Clinic, \$1,230,000.

17 (5) Knoxville, Tennessee, Outpatient Clinic,
18 \$850,000.

19 (6) Toledo, Ohio, Outpatient Clinic,
20 \$1,200,000.

21 (7) Crown Point, Indiana, Outpatient Clinic,
22 \$850,000.

23 (8) Fort Worth, Texas, Tarrant County Out-
24 patient Clinic, \$3,900,000.

1 (9) Plano, Texas, Collin County Outpatient
2 Clinic, \$3,300,000.

3 (10) San Antonio, Texas, Northeast Central
4 Bexar County Outpatient Clinic, \$1,400,000.

5 (11) Corpus Christi, Texas, Outpatient Clinic,
6 \$1,200,000.

7 (12) Harlingen, Texas, Outpatient Clinic,
8 \$650,000.

9 (13) Denver, Colorado, Health Administration
10 Center, \$1,950,000.

11 (14) Oakland, California, Outpatient Clinic,
12 \$1,700,000.

13 (15) San Diego, California, North County Out-
14 patient Clinic, \$1,300,000.

15 (16) San Diego, California, South County, Out-
16 patient Clinic, \$1,100,000.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to the Secretary of Veterans
19 Affairs for fiscal year 2005 for the Medical Care account,
20 \$24,420,000 for the leases authorized in subsection (a).

21 (c) AUTHORITY FOR LEASE OF CERTAIN LANDS OF
22 UNIVERSITY OF COLORADO.—Notwithstanding section
23 8103 of title 38, United States Code, the Secretary of Vet-
24 erans Affairs may enter into a lease for real property lo-

1 cated at the Fitzsimons Campus of the University of Colo-
2 rado for a period up to 75 years.

3 **SEC. 102. DEPARTMENT OF VETERANS AFFAIRS CAPITAL**
4 **ASSET FUND.**

5 (a) ESTABLISHMENT OF FUND.—(1) Subchapter I of
6 chapter 81 is amended by adding at the end the following
7 new section:

8 **“§ 8118. Authority for transfer of real property; Cap-**
9 **ital Asset Fund**

10 “(a)(1) The Secretary may transfer real property
11 under the jurisdiction or control of the Secretary (includ-
12 ing structures and equipment associated therewith) to an-
13 other department or agency of the United States or to a
14 State (or a political subdivision of a State) or to any public
15 or private entity, including an Indian tribe. Such a trans-
16 fer may be made only if the Secretary receives compensa-
17 tion of not less than the fair market value of the property,
18 except that no compensation is required, or compensation
19 at less than fair market value may be accepted, in the
20 case of a transfer to a grant and per diem provider (as
21 defined in section 2002 of this title). When a transfer is
22 made to a grant and per diem provider for less than fair
23 market value, the Secretary shall require in the terms of
24 the conveyance that if the property transferred is used for
25 any purpose other than a purpose under chapter 20 of

1 this title, all right, title, and interest to the property shall
2 revert to the United States.

3 “(2) The Secretary may exercise the authority pro-
4 vided by this section notwithstanding sections 521, 522
5 and 541–545 of title 40. Any such transfer shall be in
6 accordance with this section and section 8122 of this title.

7 “(3) The authority provided by this section may not
8 be used in a case to which section 8164 of this title ap-
9 plies.

10 “(4) The Secretary may enter into partnerships or
11 agreements with public or private entities dedicated to his-
12 toric preservation to facilitate the transfer, leasing, or
13 adaptive use of structures or properties specified in sub-
14 section (b)(3)(D).

15 “(5) The authority of the Secretary under paragraph
16 (1) expires on the date that is seven years after the date
17 of the enactment of this section.

18 “(b)(1) There is established in the Treasury of the
19 United States a revolving fund to be known as the Depart-
20 ment of Veterans Affairs Capital Asset Fund (hereinafter
21 in this section referred to as the ‘Fund’). Amounts in the
22 Fund shall remain available until expended.

23 “(2) Proceeds from the transfer of real property
24 under this section shall be deposited into the Fund.

1 “(3) To the extent provided in advance in appropria-
2 tions Acts, amounts in the Fund may be expended for the
3 following purposes:

4 “(A) Costs associated with the transfer of real
5 property under this section, including costs of demo-
6 lition, environmental remediation, maintenance and
7 repair, improvements to facilitate the transfer, and
8 administrative expenses.

9 “(B) Costs, including costs specified in sub-
10 paragraph (A), associated with future transfers of
11 property under this section.

12 “(C) Costs associated with enhancing medical
13 care services to veterans by improving, renovating,
14 replacing, updating, and establishing patient care fa-
15 cilities through construction projects to be carried
16 out for an amount less than the amount specified in
17 8104(a)(3)(A) for a major medical facility project.

18 “(D) Costs, including costs specified in sub-
19 paragraph (A), associated with the transfer, lease or
20 adaptive use of a structure or other property under
21 the jurisdiction of the Secretary that is listed on the
22 National Register of Historic Places.

23 “(c) The Secretary shall include in the budget jus-
24 tification materials submitted to Congress for any fiscal

1 year in support of the President’s budget for that year
2 for the Department specification of the following:

3 “(1) The real property transfers to be under-
4 taken in accordance with this section during that fis-
5 cal year.

6 “(2) All transfers completed under this section
7 during the preceding fiscal year and completed and
8 scheduled to be completed during the year during
9 which the budget is submitted.

10 “(3) The deposits into, and expenditures from,
11 the Fund that are incurred or projected for each of
12 the preceding fiscal year, the current fiscal year, and
13 the fiscal year covered by the budget.”.

14 (2) The table of sections at the beginning of such
15 chapter is amended by inserting after the item relating
16 to section 8117 the following new item:

“8118. Authority for transfer of real property; Capital Asset Fund.”.

17 (b) INITIAL AUTHORIZATION OF APPROPRIATIONS.—
18 There is authorized to be appropriated to the Department
19 of Veterans Affairs Capital Asset Fund established under
20 section 8118 of title 38, United States Code (as added
21 by subsection (a)), the amount of \$10,000,000.

22 (c) TERMINATION OF NURSING HOME REVOLVING
23 FUND.—(1) Section 8116 is repealed.

1 (2) The table of sections at the beginning of chapter
2 81 is amended by striking the item relating to section
3 8116.

4 (d) TRANSFER OF UNOBLIGATED BALANCES TO CAP-
5 ITAL ASSET FUND.—Any unobligated balances in the
6 nursing home revolving fund under section 8116 of title
7 38, United States Code, as of the date of the enactment
8 of this Act shall be deposited in the Department of Vet-
9 erans Affairs Capital Asset Fund established under sec-
10 tion 8118 of title 38, United States Code (as added by
11 subsection (a)).

12 (e) PROCEDURES APPLICABLE TO TRANSFERS.—(1)
13 Paragraph (2) of section 8122(a) is amended to read as
14 follows:

15 “(2) Except as provided in paragraph (3), the Sec-
16 retary may not during any fiscal year transfer to any other
17 department or agency of the United States or to any other
18 entity real property that is owned by the United States
19 and administered by the Secretary unless the proposed
20 transfer is described in the budget submitted to Congress
21 pursuant to section 1105 of title 31 for that fiscal year.”.

22 (2) Section 8122(d) is amended—

23 (A) by inserting “(1)” before “Real property”;
24 and

1 (B) by adding at the end the following new
2 paragraph:

3 “(2) The Secretary may transfer real property under
4 this section, or under section 8118 of this title if the Sec-
5 retary—

6 “(A) places a notice in the real estate section
7 of local newspapers and in the Federal Register of
8 the Secretary’s intent to transfer that real property
9 (including land, structures, and equipment associated
10 with the property);

11 “(B) holds a public hearing;

12 “(C) provides notice to the Administrator of
13 General Services of the Secretary’s intention to
14 transfer that real property and waits for 30 days to
15 elapse after providing that notice; and

16 “(D) after such 30-day period has elapsed, noti-
17 fies the congressional veterans’ affairs committees of
18 the Secretary’s intention to dispose of the property
19 and waits for 60 days to elapse from the date of
20 that notice.”.

21 (3) Section 8164(a) is amended by inserting “8118
22 or” after “rather than under section”.

23 (4) Section 8165(a)(2) is amended by striking “nurs-
24 ing home revolving fund” and inserting “Capital Asset
25 Fund established under section 8118 of this title”.

1 (f) CONTINGENT EFFECTIVENESS.—The amend-
2 ments made by this section shall take effect at the end
3 of the 30-day period beginning on the date on which the
4 Secretary of Veterans Affairs certifies to Congress that
5 the Secretary is in compliance with subsection (b) of sec-
6 tion 1710B of title 38, United States Code. Such certifi-
7 cation shall demonstrate a plan for, and commitment to,
8 ongoing compliance with the requirements of that sub-
9 section.

10 (g) CONTINUING REPORTS.—Following a certifi-
11 cation under subsection (f), the Secretary shall submit to
12 Congress an update on that certification every six months
13 until the certification is included in the Department's an-
14 nual budget submission.

15 **SEC. 103. ANNUAL REPORT TO CONGRESS ON INVENTORY**
16 **OF DEPARTMENT OF VETERANS AFFAIRS HIS-**
17 **TORIC PROPERTIES.**

18 (a) IN GENERAL.—Not later than December 15 of
19 2005, 2006, and 2007, the Secretary of Veterans Affairs
20 shall submit to the Committees on Veterans' Affairs of
21 the Senate and House of Representatives a report on the
22 historic properties administered or controlled by the Sec-
23 retary.

24 (b) INITIAL REPORT.—In the initial report under
25 subsection (a), the Secretary shall set forth a complete in-

1 ventory of the historic structures and property under the
2 jurisdiction of the Secretary. The report shall include a
3 description and classification of each such property based
4 upon historical nature, current physical condition, and po-
5 tential for transfer, leasing, or adaptive use.

6 (c) SUBSEQUENT REPORTS.—In reports under sub-
7 section (a) after the initial report, the Secretary shall pro-
8 vide an update of the status of each property identified
9 in the initial report, with the proposed and actual disposi-
10 tion of each property. Each such report shall include any
11 recommendation of the Secretary for legislation to en-
12 hance the transfer, leasing or adaptive use of such prop-
13 erties.

14 **SEC. 104. AUTHORITY TO USE PROJECT FUNDS TO CON-**
15 **STRUCT OR RELOCATE SURFACE PARKING**
16 **INCIDENTAL TO A CONSTRUCTION OR NON-**
17 **RECURRING MAINTENANCE PROJECT.**

18 Section 8109 is amended by adding at the end the
19 following new subsection:

20 “(j) Funds in a construction account or capital ac-
21 count that are available for a construction project or a
22 nonrecurring maintenance project may be used for the
23 construction or relocation of a surface parking lot inci-
24 dental to that project.”.

1 **SEC. 105. INAPPLICABILITY OF LIMITATION ON USE OF AD-**
2 **VANCE PLANNING FUNDS TO AUTHORIZED**
3 **MAJOR MEDICAL FACILITY PROJECTS.**

4 Section 8104 is amended by adding at the end the
5 following new subsection:

6 “(g) The limitation in subsection (f) does not apply
7 to a project for which funds have been authorized by law
8 in accordance with subsection (a)(2).”.

9 **SEC. 106. IMPROVEMENT IN ENHANCED-USE LEASE AU-**
10 **THORITIES.**

11 Section 8166(a) is amended by inserting “land use,”
12 in the second sentence after “relating to”.

13 **SEC. 107. EXTENSION OF AUTHORITY TO PROVIDE CARE**
14 **UNDER LONG-TERM CARE PILOT PROGRAMS.**

15 Subsection (h) of section 102 of the Veterans Millen-
16 nium Health Care and Benefits Act (38 U.S.C. 1710B
17 note) is amended—

18 (1) by inserting “(1)” before “The authority
19 of”; and

20 (2) by adding at the end the following new
21 paragraph:

22 “(2) In the case of a veteran who is participating in
23 a pilot program under this section as of the end of the
24 three-year period applicable to that pilot program under
25 paragraph (1), the Secretary may continue to provide to
26 that veteran any of the services that could be provided

1 under the pilot program. The authority to provide services
2 to any veteran under the preceding sentence applies dur-
3 ing the period beginning on the date specified in para-
4 graph (1) with respect to that pilot program and ending
5 on December 31, 2005.”.

6 **TITLE II—OTHER MATTERS**

7 **SEC. 201. INCLUSION OF ALL ENROLLED VETERANS AMONG** 8 **PERSONS ELIGIBLE TO USE CANTEENS OPER-** 9 **ATED BY VETERANS’ CANTEEN SERVICE.**

10 The text of section 7803 is amended to read as fol-
11 lows:

12 “(a) PRIMARY BENEFICIARIES.—Canteens operated
13 by the Service shall be primarily for the use and benefit
14 of—

15 “(1) veterans hospitalized or domiciled at the
16 facilities at which canteen services are provided; and

17 “(2) other veterans who are enrolled under sec-
18 tion 1705 of this title.

19 “(b) OTHER AUTHORIZED USERS.—Service at such
20 canteens may also be furnished to—

21 “(1) personnel of the Department and recog-
22 nized veterans’ organizations who are employed at a
23 facility at which canteen services are provided and to
24 other persons so employed;

1 “(2) the families of persons referred to in para-
2 graph (1) who reside at the facility; and

3 “(3) relatives and other persons while visiting a
4 person specified in this section.”.

5 **SEC. 202. ENHANCEMENT OF MEDICAL PREPAREDNESS OF**
6 **DEPARTMENT.**

7 (a) **PEER REVIEW PANEL.**—In order to assist the
8 Secretary of Veterans Affairs in selecting facilities of the
9 Department of Veterans Affairs to serve as sites for cen-
10 ters under section 7327 of title 38, United States Code,
11 as added by subsection (c), the Secretary shall establish
12 a peer review panel to assess the scientific and clinical
13 merit of proposals that are submitted to the Secretary for
14 the selection of such facilities. The panel shall be estab-
15 lished not later than 90 days after the date of the enact-
16 ment of this Act and shall include experts in the fields
17 of toxicological research, infectious diseases, radiology,
18 clinical care of veterans exposed to such hazards, and
19 other persons as determined appropriate by the Secretary.
20 Members of the panel shall serve as consultants to the De-
21 partment of Veterans Affairs. Amounts available to the
22 Secretary for Medical Care may be used for purposes of
23 carrying out this subsection. The panel shall not be subject
24 to the Federal Advisory Committee Act (5 U.S.C. App.).

1 (b) PROPOSALS.—The Secretary shall solicit pro-
2 posals for designation of facilities as described in sub-
3 section (a). The announcement of the solicitation of such
4 proposals shall be issued not later than 60 days after the
5 date of the enactment of this Act, and the deadline for
6 the submission of proposals in response to such solicitation
7 shall be not later than 90 days after the date of such an-
8 nouncement. The peer review panel established under sub-
9 section (a) shall complete its review of the proposals and
10 submit its recommendations to the Secretary not later
11 than 60 days after the date of the deadline for the submis-
12 sion of proposals. The Secretary shall then select the four
13 sites for the location of such centers not later than 45
14 days after the date on which the peer review panel submits
15 its recommendations to the Secretary.

16 (c) REVISED SECTION.—Subchapter II of chapter 73
17 is amended by adding at the end a new section with—

18 (1) a heading as follows:

19 **“§ 7327. Medical preparedness centers”;**

20 and

21 (2) a text consisting of the text of subsections
22 (a) through (h) of section 7325 of title 38, United
23 States Code, and a subsection (i) at the end as fol-
24 lows:

1 “(i) FUNDING.—(1) There are authorized to be ap-
2 propriated for the centers under this section \$10,000,000
3 for each of fiscal years 2005 through 2007.

4 “(2) In addition to any amounts appropriated for a
5 fiscal year specifically for the activities of the centers pur-
6 suant to paragraph (1), the Under Secretary for Health
7 shall allocate to the centers from other funds appropriated
8 for that fiscal year generally for the Department medical
9 care account and the Department medical and prosthetics
10 research account such amounts as the Under Secretary
11 determines necessary in order to carry out the purposes
12 of this section.”.

13 (d) RULE OF CONSTRUCTION.—No provision of law
14 may be construed to supersede or nullify this section, or
15 an amendment made by this section, unless it specifically
16 refers to this subsection and specifically states that it is
17 enacted to supersede or nullify this section or a provision
18 of this section.

Passed the House of Representatives September 29,
2004.

Attest:

JEFF TRANDAHL,

Clerk.